

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent
application of:

Nancy W.Y. Ho et al.

Serial No. 09/180,340

Filed August 20, 1999

STABLE RECOMBINANT YEASTS FOR) Submitted
FERMENTING XYLOSE TO ETHANOL) December 20, 2001

)
) Before the Examiner

)
) H. Robinson

)
) Group Art Unit
) 1653

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231 on December 20, 2001.

James B. Myers, Jr.

Name of Registered Representative

James B. Myers Jr.
Signature

December 20, 2001

Date of Signature

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR § 1.137(b)**

BOX DAC
Commissioner for Patents
Washington, D.C. 20231

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OFFICE OF PETITIONS

Sir:

The undersigned declares and states as follows:

1. United States Patent Application Serial No. 09/180,340 ("the subject application") was filed as an international application (PCT/US97/07663) on May 6, 1997 and claimed priority to a prior United States Provisional Patent Application Serial No. 60/016,865, filed May 6, 1996. The subject application was filed in the United States Patent and Trademark Office on November 5, 1998 and completed the national stage filing requirements under 35 U.S.C. § 371 on August 20, 1999.
2. A First Office Action with a mailing date of April 12, 2000 was received for the subject application. A copy of the First Office Action is enclosed as Exhibit A.
3. Applicants' attorney responded to the First Office Action on August 14, 2000, the response included a Request for Extension of Time, an Amendment, and

PETITION FOR REVIVAL OF AN APPLICATION...

Serial No. 09/180,340

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Attorney Docket No. 7024-109

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Supplemental Information Disclosure Statement with a copy of the cited reference. Each of these papers includes a certification by the attorney of record stating that the correspondence was deposited in the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on August 14, 2000, in accordance with 37 CFR § 1.8.

4. August 12, 2000 was a Saturday and the period for responding to the Office Action dated April 12, 2000 including a one month extension of time should have run until midnight August 14, 2000. Copies of the papers filed after the First Office Action (without the cited reference) are attached as Exhibit B.

5. Checks for a one month extension of time (\$110.00) and for the submission of a Supplemental Information Disclosure Statement after the First Office Action (\$240.00) were filed. Additionally, both the Amendment and Request for Extension of Time included a request to provide any further extension of time that may be necessary and charge any fees that may be due to Deposit Account No. 23-3030. Copies of the checks are attached in Exhibit B.

6. A Notice of Abandonment with a mailing date of January 19, 2001 was mailed by the United States Patent and Trademark Office. Applicants' copy of the Notice of Abandonment was stamped received on January 29, 2001. A copy of this Notice of Abandonment is enclosed as Exhibit C.

7. Through a clerical and inadvertent oversight, the Notice of Abandonment was misfiled and the period for responding to the Notice of Abandonment was not docketed.

8. On April 13, 2001, Applicants' attorney of record submitted a Supplemental Information Disclosure Statement, copies of the cited references pursuant to a duty under 37 CFR § 1.56 and a check for the statutory fee for Submission of an Information Disclosure Statement after the First Office Action. The Supplemental Information Disclosure Statement included a certification by the submitting attorney in accordance with 37 CFR § 1.8. A copy of this Supplemental Information Disclosure Statement is attached to this Petition as Exhibit D.

9. On July 17, 2001, Applicants' attorney of record submitted a Status Request for the subject application. The Status Request also included a certification by the signing attorney under 37 CFR § 1.8. A copy of the Status Request is attached to this Petition as Exhibit E.

10. On or about November 15, 2001 it was brought to the undersigned attorney's attention that the Notice of Abandonment had been received and that an initial petition to withdraw the holding of abandonment for the subject application pursuant to 37 CFR § 1.181 had not been filed.

11. The undersigned further states that it is believed that the Amendment filed on August 14, 2000 was fully responsive to the Office Action dated April 12, 2000. Further, the Amendment and Request for Extension of Time were timely filed, and each included a specific request for an extension of time (up to and including August 14, 2000) and an authorization to charge any fees (any deficiencies) to the attorney of record's deposit account. It is believed that the Amendment should have been entered and the subject application reconsidered.

12. The undersigned states that the entire delay in filing the required reply from the due date until the filing of the grantable petition pursuant to 35 U.S.C. § 1.137(b) was unintentional.

13. It is submitted that the Supplemental Disclosure Statement filed on April 13, 2001 and the Status Request filed on July 17, 2001 are evidence that the delay in filing a replay was unintentional.

14. The undersigned hereby petitions the Deputy Commissioner to revive the subject application and enter the Amendment and the Supplemental Information Disclosure Statements previously unentered in the subject application.

15. The Applicant for the subject application is a large entity.

16. Enclosed is a check for the amount of \$1,280.00 as a statutory fee under 37 CFR § 1.17(m) for the Petition to Revive the subject application.

17. I declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By:


James B. Myers, Jr.

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Page 4 of 4

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